

**Minutes of the First Plenary Meeting
Of the
Electricity Advisory Board**

April 23, 2002

**Rotunda Room
Ronald Reagan Building and International Trade Center
1300 Pennsylvania Ave.
Washington, D.C.**

Chairman Fuller convened the first public meeting of the Secretary's Electricity Advisory Board ("EAB") at 1:00 p.m. on Tuesday, April 23, 2002 at the Ronald Reagan Building & International Trade Center in Washington, D.C. After welcoming the group, Chairman Fuller gave the floor to Dr. Craig Reed, Executive Director of the Office of the Secretary of Energy Advisory Board. Dr. Reed explained his role as Designated Federal Official under the Federal Advisory Committee Act for the Electricity Advisory Board and covered a variety of administrative details related to how the meeting would be run. A Department of Energy lawyer also made brief remarks to the EAB members regarding rules on conflict of interest issues and offered to be available for further questions throughout the day.

Chairman Fuller began the meeting by offering opening comments. She recognized the correlation between the growth and usage of electricity and the growth in the economy since World War 11. She said that electricity is the lifeblood of the economy and stressed the need to continue to invest in new efficient generation, transmission infrastructure, environmental technologies and demand-side mechanisms. She also stated that competition in the wholesale market has served the public in terms of reliability, efficiency, and consumer savings. She dismissed Enron's collapse as a sign of the failure of wholesale competitive markets, but acknowledged that the events of the past year had weakened confidence in the wholesale electricity sector. She explained that the EAB had the opportunity to help construct solutions to improve and advance the current situation.

After her opening remarks, Chairman Fuller introduced Mr. Kyle McSlarrow, the Department of Energy Chief of Staff and nominee for Deputy Secretary of Energy. Mr. McSlarrow made very brief remarks, mainly offering his thanks to the EAB for their time and commitment.

The agenda next turned to the Discussion with Regulatory Leaders on a range of issues concerning wholesale electricity markets such as the state of competition; transmission infrastructure; capitalization concerns; effects of wholesale competition on economic and environmental policy; and legislative initiatives. Six Framework Questions on these topics, listed below, were used as the basis for the Regulatory Leaders' comments. The

invited speakers were Chairman Patrick Wood of the Federal Energy Regulatory Commission ("FERC"); Mr. Kevin O'Donovan, Associate Director of the National Economic Council ("NEC"); Chairman James Connaughton of the White House Council on Environmental Quality ("CEQ"); and Commissioner David Svanda of the Michigan Public Service Commission and the First Vice-president of the National Association of Regulatory Commissioners ("NARUC"). Each speaker made remarks, highlighted here.

Chairman Patrick Wood - FERC

Chairman Wood emphasized the need to conclude the ten-year electric industry transition from a fully regulated vertically integrated model to one of market-based competition. He explained that FERC's strategic plan is to foster an environmentally sensitive, secure, high quality electric infrastructure that will protect consumers and market participants through vigilant and proactive oversight. He acknowledged the sense of insecurity due to the events such as 9/11, the California energy crisis and the Enron collapse, and he stressed that oversight was the way to give comfort and security back to the public and investor communities.

Mr. Kevin O'Donovan - NEC

Mr. O'Donovan offered the premise that all accept free markets are the most economically efficient mechanism for the apportionment of a commodity. Electricity can be characterized as an essential commodity that displays very limited price elasticity. Although the commodity price for electricity can be volatile, free market progress and achievements should not be ignored. Despite setbacks caused by recent events, the transforination towards competitive markets should be completed. Mr. O'Donovan also noted that economic and regulatory uncertainty should be addressed by continuing to move toward competitive markets.

Chairman James Connaughton - CEQ

Chairman Connaughton stated that enhancing market-oriented approaches toward electricity supply was important to achieving national economic benefits as well as environmental benefits. He noted that market-oriented strategies toward future regulation in the environmental realm would lead to improved government oversight and streamlined decision-making. He also emphasized the need to establish greater regulatory certainty to promote markets.

Commissioner David Svanda - NARUC

Commissioner Svanda stated that the state of competition in wholesale electric markets is improving. Commissioner Svanda noted that while states may differ in their retail restructuring approaches, transmission issues can be jointly resolved. For example, Michigan is moving ahead with retail restructuring whereas Indiana is not; however, the two states work together to solve transmission infrastructure challenges. Commissioner Svanda expressed his belief that generation construction expectations will likely be met in the central United States, but may not be adequate on the east and west coasts. He stated

that the primary requirement to ensure reliable transmission was the establishment of regional and national uniformity. Commissioner Svanda offered as a possible solution to removing transmission constraints a system of penalties against owners of repeatedly constrained lines.

The Regulatory Leaders then accepted questions from the EAB. Many of the questions focused on what should be done to resolve the current uncertainty plaguing capital markets.

The agenda next turned to Deliberations on the Framework Questions by the EAB. A description of the discussion on each question follows:

1. What is the present state of health of competition in wholesale electricity markets?

Mr. Padewar, Duke Energy Group President of Energy Services, expressed his belief that despite challenges, wholesale competition has been successful. He stressed, however, that the completion of the transition to competitive markets was needed to overcome challenges of liquidity, access to capital and open access transmission. He stated that the gas model of deregulation should be applied to the electric side of the market. Mr. Letbetter, Reliant Resources Chairman of the Board, President, and Chief Executive Officer, added that more consistency among markets in the United States should help improve the state of wholesale competition.

2. Are generation construction expectations going to be met?

Chairman Fuller, Mirant, answered that overall generation expectations would be met, but there would be some dramatic variances in certain regions. Mr. Mueller, Accenture Global Industry Managing Partner, noted that in New York only one major power plant was under construction despite the fact that several had been licensed. He explained this was due to the cyclic nature of the business. Mr. Pope, Director of Silicon Valley Power, noted the delays in generation construction in California and stressed the importance of a functional transmission system to successful wholesale markets. Mr. Rivkin, Baker & Hostetler LLP Partner, added that generation construction must be concerned about maintaining a balanced fuel portfolio. He also noted that the synergistic relationship between transmission and generation must be considered in order to achieve sufficient reliability.

3. What needs to be done to ensure a reliable transmission infrastructure?

Laura Chappelle, Michigan Public Service Commission Chairman, addressed the need for regional innovative approaches to solving transmission challenges. She noted that after the Enron fallout it sometimes seemed the financial community held unreasonable financial expectations of companies trying to create regional transmission markets. Mr. Fleishman, Merrill Lynch Managing Director and Head of Global Power & Gas Research Group, suggested that more attention from Wall Street on transmission was likely over the next

year. He noted that generation construction was increasing without corresponding additional transmission investment. To fix this disjunction, Mr. Fleishman suggested the need for clear price signals and a clear regulatory schematic. Mr. English, National Rural Electric Cooperative Association Chief Executive Officer, stated that a plan acceptable to the body politic and likely to pass into law, and more certainty was needed to resolve the transmission issue. He requested that the EAB focus on finding the common ground needed to resolve transmission challenges.

4. How does uncertainty about government policies affect capital investment?

Mr. Neale, NiSource Inc. Chairman of the Board, President, and Chief Executive Officer, agreed that generation markets are cyclical and suggested that what and how much could be recovered by investors are the critical questions that need to be answered. Mr. Dobson, Deutsche Bank Managing Director of Equity Research, noted that investors are willing to accept some amount of uncertainty as long as the market structure is welldefined and contracts are upheld once signed. Mr. Green, Aquila Chairman of the Board, noted that the relationship between market uncertainties political risks and suggested that collectively, the industry stakeholders could encourage the government to finish the rules for a competitive marketplace. Ms. Johns, Verizon Washington D.C. President, noted that FERC is taking some very important steps to create certainty and that 50 States trying to deal with market oversight rules adds to uncertainty. She suggested that a decision should be made, as a society, about the appropriate level of risk suppliers can bear.

5. How does competition in wholesale electric markets affect national economic policies and goals?

Mr. Pope, Silicon Valley Power Director, noted that uncertainty still made areas in California and the West question future investment growth decisions. Mr. Cavanagh, Natural Resources Defense Council Energy Program Co-Director, noted that wholesale regulation in California in 2002 and 2001 was \$40 billion higher than in proceeding years, causing the crisis of confidence in wholesale markets. He also suggested that environmental benefits of competitive markets (in the form of cleaner, more efficient facilities) had not yet been gained, but still could be. Mr. Sergel, National Grid USA President and Chief Executive Officer, noted that wholesale competition has been improved in the nuclear industry by promoting the consolidation of ownership of nuclear plants. He added that wholesale competition has led to better price matching of electricity products to the cyclical stages of the economy.

6. How does competition in wholesale electric markets affect national environmental policies and goals?

Mr. Rivkin suggested that national environmental goals are needed in a competitive marketplace, with some flexibility to deal with local challenges, such as a region that is

heavily coal dependent. Mr. MacLeod, Environmental Defense Special Projects Director for Energy and Eco Systems, stated that environmental and public health protection is compatible with wholesale markets. He also noted that environmental considerations should not be lumped together as some are more local or national issues. Mr. Poindexter, Constellation Energy Group Chairman of the Board, stated that efforts over environmental controls should be integrated with attaining a diverse fuel portfolio. Upon further discussion it was noted that the recent generation additions have been cleaner and pointed out that competition drives innovation of more environmentally friendly technologies such as fuel cells, distributive fluid bed boilers and turbines.

The discussion on Framework Questions ended at the arrival of the Secretary of Energy. Secretary Abraham thanked the EAB for their service and offered his remarks. The Secretary addressed transmission issues and accomplishments, such as the then soon to be released National Transmission Grid Study. He discussed the status of the Yucca Mountain recommendation. He commented on the Senate Energy Bill and maintained that although it was not perfect, it would put us on a path to bring about a conference with the House that could move us toward final resolution of outstanding issues, particularly in the areas of electric policies. Finally, the Secretary spoke about critical infrastructure security and the importance of ensuring that we have a twenty-first century grid powering our nation's economy.

After accepting a few questions from the EAB and receiving a summary of the meeting discussion from Chairman Fuller, Secretary Abraham left the meeting. The agenda then moved to Public Comments. Two individuals signed up to make public comments.

Mr. John Anderson, Executive Director of ELCON, offered written comments to be incorporated into the record. Marsha Smith of the Idaho Public Utilities Commission made oral comments explaining the work of the Committee for Regional Electric Power Cooperation, which she chairs, and volunteered their services to the Board and the Department.

Following the Public Comments, the EAB focused on future organization and strategy. The formation of subcommittees was considered. The EAB reviewed proposed questions for the subcommittees and decided to implement two subcommittees, Grid Solutions and Electric Resources Capitalization.

Chairman Fuller closed the meeting.